

REMARKS

The present Response is intended to be fully responsive to the objections and rejections raised in the outstanding Office Action mailed January 28, 2008, and is believed to place the subject application in condition for allowance. Thus, favorable reconsideration and prompt allowance of the application is respectfully requested. Applicant does not acquiesce to any portion of the Office Action not particularly addressed herein.

Applicant notes with appreciation that previous 35 U.S.C. §112 rejections of dependent Claims 4 and 20 are withdrawn in view of arguments filed 11/14/2007. Applicant also notes with appreciation that previous 35 U.S.C. §102(e) and 35 U.S.C. §103(a) rejections of Claims 1-21 are, likewise, withdrawn. The outstanding Office Action, however, advances new art-based rejections under 35 U.S.C. §103(a) based in part on newly cited US Pub. 2005/0117948, to *Hatta et al.* (*Hatta*). These and other issues are addressed by the amendments and arguments presented herein.

In the outstanding Office Action, the following issues are raised:

- 1) Claim 1 stands objected to because of alleged informalities; Applicant's previous arguments filed 11/14/2007 with respect to Claim 1 objections were considered, but were deemed not persuasive;
- 2) Claims 1-4, 6, 9-14 and 21 are rejected as being allegedly obvious under 35 U.S.C. §103(a) over US Patent 6,580,524 B1 to *Weichmann et al.* (*Weichmann*) in view of *Hatta*.
- 3) Claims 5 and 15-20 are rejected as being allegedly obvious under 35 U.S.C. §103(a) over *Weichmann* in view of *Hatta*, and in further view of US Patent 6,429,947 to *Laverty et al.* (*Laverty*).
- 4) Claims 7-8 are rejected as being allegedly obvious under 35 U.S.C. §103(a) over *Weichmann* in view of *Hatta*, and in further view of US Patent 6,912,071 to *Rasmussen et al.* (*Rasmussen*).

As of the mailing of the outstanding Office Action, Claims 1-21 were pending in the application. Applicant notes that, of the pending claims of the application, each of Claims 1 and 21 is presented in independent form. In view of the claim amendments proposed herein and the following discussion, Applicant submits that the concerns of

the Examiner giving rise to the objection to independent Claim 1 for informalities have been fully addressed, and that none of the claims now pending in the application are obvious under the provisions of 35 U.S.C. §103. Thus, Applicant believes that each of the claims now pending in the application is in condition for allowance.

I. CLAIM AMENDMENTS

Applicant has amended each of independent Claims 1 and 21 to better define the individual steps of the claimed processes. More particularly, subheadings "a)", "b)", etc., have been added to further improve the readability of the claims. Applicant has also amended Claims 1 and 21 to include (i) a step of "repeating steps a) through e) if color deviations between the master image data and the test image data are not in acceptable limits" and (ii) language clarifying that edition printing with the printing plates is released if color deviations between the master image data and the test image data are in acceptable limits. Applicant respectfully submits that support for the subject matter recited in each amended claim is found in the subject application, and prompt entry of such claim amendments is respectfully requested.

II. OBJECTION TO CLAIM 1

The Examiner objected to claim 1 on the basis of the claim having an improper format, and indicated that appropriate correction is required. More particularly, the Examiner objected to the claim structure, taking the position that the recited "improvement" -- which the Examiner characterizes as "a state of being, not a process or method" -- required correction. Furthermore, the Examiner objected to the use of the preposition "In" at the beginning of the claim. While Applicant continues to believe that the Examiner's position is improper, Applicant has amended Claim 1 per the recommendations of the Examiner to advance prosecution. Applicant submits that all issues raised in the Examiner's objection to Claim 1 have been addressed by the current amendment. Accordingly, Applicant respectfully requests that the Examiner reconsider the present objection to Claim 1, with a view toward withdrawing such objection and providing Applicant with prompt notice thereof.

III. REJECTION OF CLAIMS 1-4, 6, 9-14 AND 21 UNDER 35 U.S.C. §103(a)

The Examiner rejected claims 1-4, 6, 9-14, and 21 as being allegedly obvious over *Weichmann* in view of *Hatta*. In particular, the Examiner stated that:

Regarding [independent] claims 21 and 1, *Weichmann* discloses a printing process involving two stages, a pre-printing stage and an edition printing stage which comprises in the pre-printing stage producing digital original image data which represent an original master (see FIG. 4 (1,3,70) and Col. 4, Line 17-30);

producing the digital printing data from the master image for the printing colors involved in the printing (see Col. 4, Line 17-30);

transmitting the digital printing data to a print shop by way of a data channel (see FIG. 4, Col. 8, Line 6-23 and Col. 8, Line 24-33);

producing the printing plates in the print shop using the digital printing data for use in the edition printing to be carried out in a printing machine (see Col. 5, Line 54-54);

using for the color control of the printing machine test data corresponding to the test image produced by an image wise colorimetric measurement of at least one edition printing sample using a spectral color measurement system (see Col. 4, Line 17-30 and Col. 4, Line 43-57);

transmitting the results of the quality monitoring from the pre-printing stage to the print shop through a data channel (see Col. 7 Line 6-14, Col. 8, Line 6-23 and Col. 8, Line 24-33); and

using the (sic) in the printing shop the results of the quality monitoring transmitted from the pre-printing stage for at least one of the release of the edition printing and the control of the printing process (see Col. 7 Line 6-14, Col. 8, Line 6-23 and Col. 8, Line 24-33).

The Examiner acknowledges that “[1] transmitting the test image data...produced in the print shop to the pre-printing stage through a data channel; and [2] evaluating the test image data in the pre-printing stage for quality monitoring.” The Examiner, however, takes the position that these steps would have been obvious to a person skilled in the art based on the teachings of *Weichmann* in view of *Hatta*. According to the Examiner, “[i]t discloses transmitting test image data to the pre-printing stage through a data channel (see Fig. 19 (3A,330,336,338,335) and

paragraphs [0220-0223]) and evaluating the test image data in the pre-printing stage (see Fig. 19 (330,335) and paragraph [0023])."

Hatta describes a printing system having a photo studio 1 and a center server machine 8 which are connected via data communication (Internet) 7. See Figure 2. An ICC profile is downloaded from the center server machine 8; a test pattern printout 336 is printed by means of a printer 3A, wherein said ICC profile is considered; this printed test pattern 336 is scanned with an image scanner 338 (erroneously referred to as image scanner 388 in the specification); and the printed test pattern 336 is transmitted back to the center server machine 8, wherein at the center server machine 8, the printed test pattern 336 is evaluated and a new ICC profile is generated for the printer 3A, which is stored in the center server machine 8. See Figure 19 and paragraphs [0220] and [0223].

As the Examiner is aware, to establish a *prima facie* case of obviousness, one of the basic criteria that must be met is that the prior art reference (or references when combined) must teach or suggest all the claimed limitations. *In re Vaeck*, 947 F. 2d. 488 (Fed. Cir. 1991). Here, Applicant respectfully submits that a *prima facie* case of obviousness has not been established. Indeed, deficiencies in the *Weichmann* reference -- which are identified in the outstanding Office Action -- and other deficiencies discussed herein are not cured by the *Hatta* reference, particularly with reference to Applicant's independent Claims 1 and 21 (as amended).

In particular, with reference to paragraph [0220] of *Hatta*, the *Hatta* disclosed methodology relies on comparison of a previously determined test pattern 337 with a printed test pattern 336. The *Hatta* method can thus be applied at regular intervals "in order to investigate changes in printer(s) over time." Furthermore, according to *Hatta*, the ICC profile is updated using a predetermined "master test pattern," wherein the master test pattern is printed (printed test pattern) and scanned, and wherein the scanned image data is then compared to the original master test pattern. *Hatta*, therefore, necessitates/contemplates updating the ICC profile on a periodic basis, e.g., before edition printing, using a printed/scanned master test pattern, whereas an updated ICC profile is not necessary and is not established according to Applicant's claimed processing methods.

Unlike the proposed combination of *Weichmann* and *Hatta*, Applicant's claimed method (i.e., independent Claims 1 and 21) advantageously performs a quality monitoring check using the actual image data for edition printing. Thus, the quality monitoring check is optimized for the particular edition printing to be performed. Furthermore, by avoiding the need to update the ICC profile, potential errors, e.g. in data transmission, are avoided. Thus, unlike the *Weichmann* and *Hatta* teachings (whether taken alone or in combination), Applicant's claimed method includes, *inter alia*, comparing master image data with test image data for purposes of quality monitoring that is used to control the printing process (step (e)) and releasing edition printing by the printing plates if color deviations between the master image data and the test image data are in acceptable limits (step (g)). In this way, Applicant's claimed method obviates the need to periodically update ICC profiles and advantageously uses a comparison of test image data and master image data to control/release print shop operations.

Amended Claims 1 and 21 also advantageously provide a repetition step – i.e., repeating steps a) through e) – whereby edition printing is not released until “color deviations between the master image data and the test image data are in acceptable limits.” This limitation is not disclosed and/or suggested by *Weichmann* and/or *Hatta*, whether taken alone or in combination. Applicant further respectfully submits that each of the respective methods of independent claims 1 and 21 provides patentably distinct results that are not achieved and/or achievable with any variation of the combined methods of *Weichmann* and *Hatta*. For at least the foregoing reasons, Applicant submits that each of claims 1 and 21, as amended, is patentable over the proposed combination of *Weichmann* and *Hatta*. Applicant, therefore, respectfully request withdrawal of the present rejection under Section 103(a).

Claims 2-4, 6, and 9-14 depend, either directly or indirectly, from Claim 21 and recite additional features therefor. At least since the proposed combination of *Weichmann* in view of *Hatta* does not make obvious Applicant's invention as recited in independent Claim 21, the proposed combination of *Weichmann* and *Hatta* also fails to render any of dependent claims 2-4, 6 or 9-14 obvious. Moreover, the Applicant submits that each of the respective methods of dependent claims 2-4, 6 and 9-14

provides patentably distinct results that are not achieved and/or achievable with any variation of the proposed combination of *Weichmann* and *Hatta*. For at least the foregoing reasons, Applicant submits that each of the dependent claims presented herein is patentable over all the art of record, including specifically the proposed combination of *Weichmann* and *Hatta*. Accordingly, Applicant respectfully requests withdrawal of the present obviousness rejections of claims 1-4, 6, 9-14 and 21.

IV. REJECTION OF CLAIMS 5 AND 15-19 UNDER 35 U.S.C. §103(a)

As noted above, Claims 5 and 15-19 currently stand rejected for obviousness based on a proposed combination of *Weichmann* in view of *Hatta* and in further view of *Laverty*. The rejection is respectfully traversed.

As previously discussed, to establish a *prima facie* case of obviousness, one of the basic criteria that must be met is that the prior art reference (or references when combined) must teach or suggest all the claimed limitations. *In re Vaeck*, 947 F. 2d. 488 (Fed. Cir. 1991). Here, a *prima facie* case of obviousness has not been established, at least because independent Claim 21, from which Claims 5 and 15-19 depend, includes limitations not taught nor suggested in *Weichmann*, *Hatta* and/or *Laverty*, whether taken alone or in combination.

In discussing the teachings of *Laverty*, the Examiner focused on the respective limitations of dependent Claims 5 and 15-20. However, as is readily apparent, *Laverty* fails to address and/or cure the deficiencies noted above with respect to independent Claim 21 (from which Claims 5 and 15-20 depend). Applicant respectfully submits that *Laverty* fails to teach or suggest, *inter alia*, a modification to the teachings of *Weichmann* and/or *Hatta* that would render obvious independent Claim 21 (as amended herein). As such, a *prima facie* case of obviousness has not been established because the combination of the cited references fails to yield a method that includes all of the limitations recited in independent Claim 21. Accordingly, Applicant respectfully submit that Claims 5 and 15-20 patentably distinguish over the proposed combination of *Weichmann*, *Hatta* and *Laverty* for at least the reasons noted herein with respect to independent Claim 21. Applicant respectfully requests that the present obviousness rejections of Claims 5 and 15-20 be withdrawn, and the claims allowed.

IV. REJECTION OF CLAIMS 7-8 UNDER 35 U.S.C. §103(a)

The Examiner rejected Claims 7-8 as being allegedly obvious over *Weichmann* in view of *Hatta* and in further view of *Rasmussen*. The rejection is respectfully traversed.

Claims 7-8 depend, either directly or indirectly, from independent Claim 21 and recite additional features therefor. At least since the subject matter of independent Claim 21 is not obvious in view of the proposed combination of *Weichmann*, *Hatta* and *Rasmussen*, the subject matter of Claims 7-8 is similarly not obvious in view thereof. Accordingly, the Applicant respectfully submits that each of Claims 7-8 is patentable over all the art of record, including specifically the proposed combination of *Weichmann*, *Hatta* and *Rasmussen*. Applicant respectfully requests that the present obviousness rejections of Claims 7-8 be withdrawn, and the claims allowed.

CONCLUSION

For at least the foregoing reasons, the Applicant submits that the Examiner's concerns leading to the present objection to Claim 1 and the present rejections of Claims 1-21 have been fully and completely addressed, and that none of the claims presently in the application are obvious under the provisions of 35 U.S.C. §103. Consequently, the Applicant believes that each of these claims is presently in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Office believes that any unresolved issues still exist or if, in the opinion of the Office, a telephone conference would expedite passing the present application to issue, the Office is invited to call the undersigned attorney directly at 203-399-5920 or the office of the undersigned attorney at 203-399-5900 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,



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